

WAGANAKSING ODAWA STATUTE
Gaming Enterprise Board

SECTION I. REPEALS AND REPLACES

This Statute repeals and replaces Waganakising Odawak Statute (WOS) 2010-021 Gaming Delegation and Authority Statute and any previous Statues including WOS 2009-012, WOS 2001-12, as amended by WOS 2000-02

SECTION II. PURPOSE

A. This Statute establishes and creates the Gaming Enterprise Board with the purpose of providing for monitoring, oversight, and direction regarding the management of the Odawa Casino Resort to serve the best interests of the Tribe. The Gaming Enterprise Board is charged with maximizing both the Revenues and associated EBITDA of the Odawa Casino Resort while also maximizing employment opportunities for Tribal Citizens while respecting Tribal traditions, values and culture. The Gaming Enterprise Board shall consist of persons with business and gaming experience, including both Tribal Citizens and others. The Board is intended to minimize the potential for political interference with business decision-making.

B. The Gaming Enterprise Board is charged with the development of policies and procedures for the orderly and efficient operation of the Tribe's Gaming Enterprises, to provide for management oversight of its operations in accordance with *Article VII D (24) delegation of management responsibilities* and to provide distributions of profits to the Tribal Government.

SECTION III. DEFINITIONS

A. “*Annual Enterprise Business Plan*” means the twelve-month marketing, financial and operations plan written for the gaming operation and related ancillary businesses including short-term and long-term strategies of the Odawa Casino Resort by department.

- 1 **B.** “*Annual Capital Asset Plan*” means the planned capital asset purchases for the fiscal
2 year.
3
- 4 **C.** “*Annual Strategic Plan*” means the analysis and strategies the Gaming Enterprise intends
5 to implement by department in order to meet its financial and operating goals and objectives.
6
- 7 **D.** “*Chief Financial Officer*” or “*CFO*” means the person employed by the Gaming
8 Enterprises who reports to the Board to oversee the issuance of financial information related to
9 the Gaming Enterprises.
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- 11 **E.** “*EBITA*” means Earnings Before Interest, Taxes, Depreciation and Amortization.
12
- 13 **F.** “*Fiscal Year*” means the twelve month period from January through December.
14
- 15 **G.** “*Gaming*” means any game classified as “Class II” or “Class III” under the Indian
16 Gaming Regulatory Act of October 17, 1988 and or future amendments.
17
- 18 **H.** “*Gaming Enterprises*” means the Odawa Casino Resort, ancillary enterprises, activities
19 and any other tribally owned enterprises or businesses related to gaming.
20
- 21 **I.** “*Gaming Enterprise Board Member*” means a person seated on the Gaming Enterprise
22 Board.
23
- 24 **J.** “*General Manager*” means the person hired under the direction of the Gaming Enterprise
25 Board, to manage and oversee the day-to-day operations of the Gaming Enterprises.
26
- 27 **K.** “*Independent Auditor*” means the person or entity required under the LTBB Gaming
28 Regulatory Statute, as amended.
29
- 30 **L.** “*LTBB*” means Little Traverse Bay Bands of Odawa Indians.
31
- 32 **M.** “*Tribal Council*” means the Legislative Branch of the Little Traverse Bay Bands of
33 Odawa Indians.
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1 **SECTION IV. CREATING THE GAMING ENTERPRISE BOARD**

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3 The Gaming Enterprise Board is hereby created and Tribal Council delegates and
4 authorizes its duties and authority as set forth in this Statute.

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6 **SECTION V. TRIBAL COUNCIL MANAGEMENT DELEGATION**

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8 In accordance with the Tribal Constitution, Tribal Council will provide by statute for the
9 management of any and all economic affairs and will delegate management responsibilities to a
10 subordinate Tribal entity. Tribal Council delegates the management of the Gaming Enterprise to
11 the Gaming Enterprise Board and Tribal Council shall hold the Gaming Enterprise Board
12 accountable for the responsibilities as set forth in this Statute.

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15 **SECTION VI. COMPOSITION, REQUIRED QUALIFICATIONS, TRANSITION**
16 **& AUTHORITY, APPOINTMENT AND TERMS**

17
18 **A. COMPOSITION**

19
20 1. Tribal Council provides by this statute the management of the Gaming Enterprise,
21 in accordance with the Tribal Constitution by creating a Gaming Enterprise Board that
22 shall consist of five (5) members who meet the eligibility requirements set out in
23 subsection (B) of this section. Board members may be LTBB Tribal Citizens or non-tribal
24 Citizens, provided, however, that a majority of the voting members of the Gaming
25 Enterprise Board shall be LTBB Tribal Citizens.

26
27 2. The Gaming Enterprise Board shall have three officers including a Chairperson,
28 Vice-Chairperson, and Secretary/Treasurer that are elected and approved by the Gaming
29 Enterprise Board. Election of Officers shall be held annually.

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31 **B. REQUIRED QUALIFICATIONS**

32
33 To serve on the Gaming Enterprise Board a person must possess the following minimum
34 qualifications and must be licensed under the Tribe's Gaming Regulatory Ordinance.

1 **1.** Possesses an Associate or Bachelor's Degree in Business Administration,
2 Finance, or Hospitality; or in a related discipline.

3
4 **2.** Have either:

5
6
7 **a.** A minimum of three (3) years successful work experience in a senior
8 management position in the field of business administration, public
9 administration, hotel management, accounting, finance or law, preferably with
10 specialized knowledge and expertise relevant to the gaming industry; or

11
12 **b.** A minimum of six (6) years of gaming work experience.

13
14 **3.** Possess leadership qualities, shows good judgment, is approachable and team
15 oriented.

16
17 **4.** No person can serve on the Gaming Enterprise Board who is an elected official of
18 LTBB, except in the case of implementing the section on *Transition of Authority*.

19
20 **5.** No person can serve on the Gaming Enterprise Board who is employed by any
21 Gaming Enterprise of LTBB.

22
23 **6.** No person shall serve as a Gaming Enterprise Board member, who is within seven
24 (7) years of completion of a sentence or probation upon being convicted of a felony in
25 Tribal, State, or Federal Court, unless such conviction has been vacated or overturned.

26
27 **7.** No person shall serve as a Gaming Enterprise Board member who is on a
28 Security Ban from the Gaming Enterprise or who has been banned in the last two (2)
29 years.

30
31 **C. TRANSITION OF AUTHORITY**

32
33 The Gaming Enterprise Board shall be established with the members of the Gaming Authority
34 Committee. The Gaming Authority Committee members shall continue to serve on the Gaming
35 Enterprise Board until replaced by the newly serving Gaming Enterprise Board members,

provided that the Gaming Authority Committee still hold their seats on Tribal Council. All vacant seats will be filled first, before any seats of the Gaming Authority Committee members are replaced. Gaming Authority Committee members' seats will be filled prior to the Gaming Authority Committee Chair's seat, if at all possible. The Legislative Branch staff shall continue to provide services to the Gaming Enterprise Board for a 120 day period after enactment of this statute.

D. APPOINTMENT AND TERMS

1. Gaming Enterprise Board members, who meet the qualifications, shall be approved by a majority vote of Tribal Council. In order to remove a Gaming Enterprise Board Member, it requires an affirmative vote of at least seven (7) Tribal Councilors.

2. Three (3) persons of the Gaming Enterprise Board shall serve for a three (3) year term. Two persons of the Gaming Enterprise Board shall serve for a two (2) year term. Each term thereafter, the terms will be three (3) years. If there is a vacancy in a term, a person shall serve the remainder of the term.

3. Any Gaming Enterprise Board member may resign from office at any time, such resignation will be in writing and shall take effect immediately without acceptance.

4. The Gaming Enterprise Board may recommend to Tribal Council removal for cause by a super-majority vote of the Gaming Enterprise Board, excluding the Gaming Board Member in question, using the following criteria:

a. Intentional act or failure to act resulting in material harm to the organization.

b. Found liable of discrimination based on protected classes or of sexual harassment.

c. Incompetency.

- d. Violation of the Constitutionally Mandate Rules of Conduct or other Ethical violations.
- e. Neglect of duties.
- f. Violations of Tribal law.
- g. Violations of Gaming Enterprise Board Policy.
- h. Failure to attend Gaming Enterprise Board meetings within a consecutive three (3) month period.

SECTION VII. POWERS, DUTIES AND FUNCTION

A. POWERS

The Gaming Enterprise Board shall have the following powers in connection with the Enterprise:

1. To employ a General Manager, including interviews, selection, hiring and contract negotiations. Additionally the Board may negotiate annual compensation, criteria for annual reviews, and potential bonuses.
2. Present an annual budget for the Gaming Enterprise Board to Tribal Council for approval that may include funding for such items as: meeting stipends; training or conference per diem and travel expenses; staff and consultants; office space and equipment, and other expenses necessary to carry out the duties and responsibilities of the Gaming Enterprise Board. The Gaming Enterprise shall reimburse the Tribal Government for any expenses incurred by the Board.
3. To employ staff to carry out Gaming Enterprise Board functions, provided funding is available.
4. To employ or retain legal counsel and other consultants to advise the Gaming Enterprise Board, provided funding is available.

1
2 **5.** To approve the following:

- 3
4 **a.** Annual Enterprise Business Plan
5 **b.** Anticipated annual financial distribution to the LTBB Government.
6 **c.** Annual Capital Asset Plan
7 **d.** Annual Strategic Plan
8 **e.** Any loan or banking documents
9 **f.** Human Resources policies

10
11 **B. DUTIES AND FUNCTIONS**

12
13 **1.** The Gaming Enterprise Board shall review, evaluate and may terminate the
14 General Manager.

15
16 **2.** The Gaming Enterprise Board shall monitor compliance of the approved policy
17 and procedures through the General Manager.

18
19 **3.** The Gaming Enterprise Board shall adopt meeting policies and any other policies
20 for Gaming Enterprise Board business, provided such policies are in accordance with this
21 Statute and approved by the Gaming Enterprise Board.

22
23 **4.** The Gaming Enterprise Board shall adhere to the Constitutionally Mandated
24 Rules of Conduct for Officials of Tribal Government that are approved by Tribal Council
25 and any other subsequent rules, as may apply.

26
27 **5.** The Gaming Enterprise Board shall adhere to the Tribal Minimal Internal Control
28 Standards (TMICS) and all other applicable Statutes and laws.

29
30 **6.** The Gaming Enterprise Board shall adhere to all Policies and Procedures
31 approved by the Tribal Council.

32
33 **7.** The Gaming Enterprise Board shall not be involved in the day-to-day decision
34 making process of the Gaming Enterprises and its operations.
35

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2 **SECTION VIII. FINANCING, BANK ACCOUNTS AND BUDGETS**
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4 **A.** The Gaming Enterprise Board is not authorized to incur any financial obligation or
5 liability, other than what is in the Gaming Enterprise Board's approved budget, without prior
6 Tribal Council approval.
7

8 **B.** The Gaming Enterprise Board shall have the authority to establish and maintain bank
9 accounts as may be necessary for the operations of the Enterprises
10

11 **C.** The CFO shall oversee and manage the accounting, finance, cage, count credit and cash
12 management of the Enterprises, and other directors and managers as appropriate
13

14 **D.** The CFO shall report directly to the General Manager, and shall provide a monthly report
15 of all Gaming Enterprises financial records. In turn, the General Manager shall provide the
16 report to the Gaming Enterprise Board, Tribal Council, Tribal Chairperson, Director of Treasury
17 and Tribal Government CFO. Any questions regarding the report shall be directed to the
18 Gaming Enterprise Board.
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21 **SECTION IX. REPORTING REQUIREMENTS & COMMUNICATION PLAN**
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23 **A.** The Gaming Enterprise Board shall be responsible for maintaining regular reporting
24 and accountability to both the Tribal Council and the Tribal Citizens through the development of
25 appropriate financial reporting and other communication policy and procedures, as approved by
26 Tribal Council.
27

28 **B.** The Gaming Enterprise Board shall provide to Tribal Council, a monthly report which
29 shall contain the actual, projected and forecasted revenues, expenses and earnings before
30 Interest Taxes, Depreciation and Amortization (EBITA) for the preceding month (actuals),
31 current month (projection) and not less than three (3) months in advance (forecast) based on
32 Annual Enterprise Business Plan. This report shall also include; the number of employees,
33 number of Tribal Citizens, other Natives and non-Natives employed, and turn-over-rate, number
34 of Tribal Citizens in management positions, Native or non-Native employed in management

1 positions and requests new development and/or capital projects and all other relevant
2 information.

3
4 **C.** The Gaming Enterprise Board shall present a quarterly report to Tribal Council that may
5 be via conference/video call or in-person, or more often as requested by Tribal Council.
6

7 **D.** The Tribal Council shall appoint an independent auditor to conduct the annual financial
8 statement audit and minimum internal control testing required by 25 C.D.R. §§ 52204 and
9 571.12 and any other applicable or successor Federal regulations. The Gaming Enterprise Board,
10 Tribal Council, Tribal Chairperson, Treasury Director and Tribal Government CFO shall have a
11 right to receive a Copy of the annual audit,
12

13 **E.** Gaming Enterprise Board records shall be open to Tribal Citizens upon request in
14 accordance with Tribal law, except in matters of confidentiality as defined by Tribal Statute.
15

16 **F.** Gaming Enterprise Board Annual Report. By March 31st of each year, the Tribal
17 Enterprise Board shall prepare and deliver to Tribal Council an annual report and an audited
18 financial statement, including a statement of cash flows, balance sheet and an income statement,
19 including comparative figures from the preceding fiscal year.
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22 **SECTION X. MEETINGS**

23
24 **A.** The Gaming Enterprise Board shall meet in person at least once per month, and the
25 agenda shall include a time for public comment. Such meeting will be held within the LTBB
26 reservation and open to Tribal Citizens.
27

28 **B.** Closed Sessions may be held only for the purposes of personnel, litigation, confidential
29 business or legal matters; or matters that rise to the level of significant privacy or confidentiality.
30 Tribal Councilors or Tribal Council's designee may attend closed sessions, except for personnel
31 matters, as observers only.
32

33 **C.** A public comment period will be open only to Tribal Citizens, Tribal Councilors and
34 Tribal Chairperson.
35

1 **D.** Notice of meetings or work-sessions shall be posted forty-eight (48) hours in advance.

2
3 **E.** Gaming Enterprise Board business that requires immediate attention may be conducted
4 by electronic means. Any action taken on such a call shall be recorded in the minutes of the next
5 regularly scheduled meeting. The Gaming Enterprise Board Secretary/Treasurer or designee
6 shall attempt to notify each of the Gaming Enterprise Board Members of the conference call by
7 any practical means including telephone, fax, email, text or in person and must certify that an
8 attempt was made of contact each Gaming Enterprise Board member.

9
10 **F.** Emergency meetings may only be called when immediate action is necessary for the
11 preservation or promotion of essential interests of the Tribe and Enterprises. The emergency
12 action taken must be ratified at the next regular meeting of the Gaming Enterprise Board, and the
13 minutes must state the reason such emergency action was necessary.

14
15 **G.** A quorum for a Gaming Enterprise Board meeting shall consist of any three (3) voting
16 members of the Gaming Enterprise Board. A meeting may not be called to order without a
17 quorum present and no official business shall be conducted without a quorum.

18
19 **H.** All non-financially related work-sessions shall remain open and shall not include a closed
20 session.

21 22 23 **SECTION XI. COMPENSATION**

24
25 **A.** The Gaming Enterprise Board shall be compensated, subject to the availability of funds,
26 as follows:

27
28 **1.** \$200.00 meeting stipend, with a maximum monthly meeting stipend of \$400.00 a
29 month. The meeting stipend shall include per diem and travel.

30
31 **2.** Expenses for travel for training and conferences shall include per diem and
32 reimbursement of expenses in accordance with the Tribal Council approved Travel
33 policies.

1 **3.** Pay for the Gaming Authority Committee members that are seated on the Gaming
2 Enterprise Board shall be paid according to the Constitutionally Mandated Compensation
3 Statute.
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6 **SECTION XII. NEPOTISM**

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8 **A.** For Purposes of this Statute, two (2) or more members of the same immediate family
9 shall not serve on the Gaming Enterprise Board at the same time. Further, a person shall not
10 serve on the Gaming Enterprise Board if the General Manager, Director of Finance, Internal
11 Auditor, Tribal Chairperson or Vice-Chairperson, on a Tribal Councilor is an immediate family
12 member, For purposes of this section immediate family means husband, wife, son, daughter,
13 step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law,
14 brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child or person
15 whose relationship with the Gaming Enterprise Board is similar to that of person who are related
16 by blood or marriage.
17

18 **B.** No Gaming Enterprise Board member may participate in making any decision that
19 involves a personal or financial interest of the Gaming Enterprise Board or a member of his or
20 her immediate family, unless interest is held in common with the Tribe and its Citizens.
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23 **SECTION XIII. GAMING PROHIBITION**

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25 No Member of the Gaming Enterprise Board shall be allowed to participate in any gaming
26 activity operated by LTBB.
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29 **SECTION XIV. SAVING CLAUSE**

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31 In the event that any phrase, provision, part, paragraph, subsection, or section of this Statute is
32 found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the
33 Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part paragraph, subsection
34 or section shall be considered to stand alone and to be deleted from this statute, the entirety of
35 the balance of the statute to remain in full and binding force and effect.

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3 **SECTION XV. EFFECTIVE DATE**
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5 Effective upon signature of the Executive or 30 days from Tribal Council approval whichever
6 comes first or if the Executive vetoes the Statute, then upon Tribal Council override of the veto.
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